

CASE

NUMBER:

99-011

INDEX FOR CASE: 99-011
OWEN ELECTRIC COOPERATIVE, INC.
Franchises

BY CITY OF SPARTA - GALLATIN COUNTY

IN THE MATTER OF THE APPLICATION OF OWEN ELECTRIC
COOPERATIVE, INC., FOR A CERTIFICATE OF CONVENIENCE AND
NECESSITY TO BID ON A FRANCHISE ORDINANCE BY CITY OF SPARTA,
GALLATIN COUNTY, KENTUCKY

SEQ NBR	ENTRY DATE	REMARKS
0001	01/11/99	Application.
0002	01/12/99	Acknowledgement letter.
0003	01/26/99	FINAL ORDER; GRANTS CERT. OF CONV. & NECESSITY THAT AUTHORIZES BID ON FRANCHISE



COMMONWEALTH OF KENTUCKY
PUBLIC SERVICE COMMISSION

730 SCHENKEL LANE
POST OFFICE BOX 615
FRANKFORT, KY. 40602
(502) 564-3940

CERTIFICATE OF SERVICE

RE: Case No. 99-011
OWEN ELECTRIC COOPERATIVE, INC.

I, Stephanie Bell, Secretary of the Public Service Commission, hereby certify that the enclosed attested copy of the Commission's Order in the above case was served upon the following by U.S. Mail on January 26, 1999.

Parties of Record:

Frank Downing
Manager
Owen Electric Cooperative, Inc.
510 South Main Street
P. O. Box 400
Owenton, KY. 40359

Honorable James M. Crawford
Attorney at Law
Crawford & Baxter, P.S.C.
523 Highland Avenue
P. O. Box 353
Carrollton, KY. 41008

Stephanie J. Bell
Secretary of the Commission

SB/sa
Enclosure

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

THE APPLICATION OF OWEN ELECTRIC)
COOPERATIVE, INC. FOR A CERTIFICATE)
OF CONVENIENCE AND NECESSITY TO BID) CASE NO. 99-011
ON A FRANCHISE ORDINANCE BY CITY OF)
SPARTA, GALLATIN COUNTY, KENTUCKY)

O R D E R

On January 11, 1999, Owen Electric Cooperative, Inc. ("Owen") filed with the Commission its application seeking a Certificate of Convenience and Necessity to qualify it to bid on an electric franchise in the city of Sparta, Kentucky. Under the provisions of KRS 278.020(3), no utility may apply for a franchise from any governmental agency until it has obtained a Certificate of Convenience and Necessity from this Commission based on our finding that there is a need and demand for the service sought to be rendered.

The Commission determines that there is evidence of a need and demand for electric service in the above-mentioned city. Since the Commission's authority in such matters is limited by statute to finding only whether there is a need and demand for the service sought to be rendered, no finding or determination is made as to the qualifications of the bidder, the validity of any of the provisions of the franchises offered by said city, or the manner in which any franchise fee is to be treated for rate purposes.

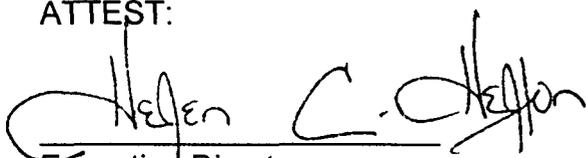
IT IS THEREFORE ORDERED that:

1. Owen is granted a Certificate of Convenience and Necessity that authorizes it to bid on an electric franchise in the above-mentioned city.
2. Owen, if it becomes the successful bidder, shall file with this Commission two copies of the franchise agreement.
3. This Order shall not be construed as granting a Certificate of Convenience and Necessity to construct utility facilities in said city.

Done at Frankfort, Kentucky, this 26th day of January, 1999.

By the Commission

ATTEST:


Executive Director



COMMONWEALTH OF KENTUCKY
PUBLIC SERVICE COMMISSION

730 SCHENKEL LANE
POST OFFICE BOX 615
FRANKFORT, KY. 40602
(502) 564-3940

January 12, 1999

Frank Downing
Manager
Owen Electric Cooperative, Inc.
510 South Main Street
P. O. Box 400
Owenton, KY. 40359

Honorable James M. Crawford
Attorney at Law
Crawford & Baxter, P.S.C.
523 Highland Avenue
P. O. Box 353
Carrollton, KY. 41008

RE: Case No. 99-011
OWEN ELECTRIC COOPERATIVE, INC.
(Franchises) BY CITY OF SPARTA - GALLATIN COUNTY

This letter is to acknowledge receipt of initial application in the above case. The application was date-stamped received January 11, 1999 and has been assigned Case No. 99-011. In all future correspondence or filings in connection with this case, please reference the above case number.

If you need further assistance, please contact my staff at 502/564-3940.

Sincerely,

A handwritten signature in cursive script that reads "Stephanie Bell".

Stephanie Bell
Secretary of the Commission

SB/jc

CRAWFORD & BAXTER, P.S.C.

ATTORNEYS AT LAW
523 Highland Avenue
P.O. Box 353
Carrollton, Kentucky 41008

99-06036
RECEIVED

JAN 11 1999

**PUBLIC SERVICE
COMMISSION**

James M. Crawford
Ruth H. Baxter
G. Michael Cain, II

Phone: (502) 732-6688
1-800-442-8680
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January 5, 1999

CASE
99-011

Ms. Helen Helton
Public Service Commission
730 Schenkel Lane
P.O. Box 615
Frankfort, Kentucky 40602

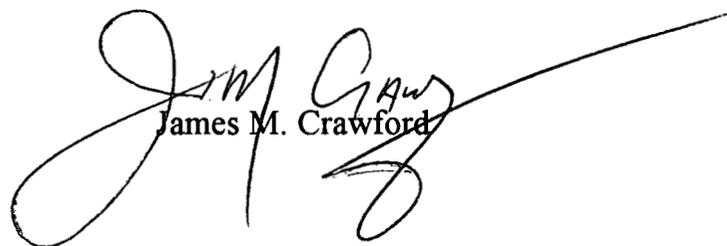
RE: Application of Owen Electric Cooperative, Inc., for
a Certificate of Convenience and Necessity to Bid on a
Franchise Ordinance by City of Sparta, Gallatin County, Kentucky

Dear Ms. Helton:

We serve as counsel for Owen Electric Cooperative, Inc. Enclosed you will find an Application for a Certificate of Convenience and Necessity to Bid on a Franchise offered by the City of Sparta, Gallatin County, Kentucky. We would appreciate the Commission acting on the enclosed Application as soon as possible.

Respectfully yours,

CRAWFORD & BAXTER, P.S.C.


James M. Crawford

JMC/mns

Enclosures

cc: Mr. Frank Downing
General Manager
Owen Electric Cooperative, Inc.

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

RECEIVED

JAN 11 1999

PUBLIC SERVICE
COMMISSION

IN THE MATTER OF:

THE APPLICATION OF OWEN ELECTRIC)
COOPERATIVE, INC., FOR A CERTIFICATE)
OF CONVENIENCE AND NECESSITY TO BID)
ON A FRANCHISE ORDINANCE BY CITY OF)
SPARTA, GALLATIN COUNTY, KENTUCKY)

CASE NO. 99-011

APPLICATION

*** **

Owen Electric Cooperative, Inc., "Owen", respectfully submits the following application herein pursuant to KRS 278.020:

1. Owen is a non-profit corporation without any capital stock and its post office address is 510 Main Street, Owenton, Kentucky 40359.
2. Owen's Articles of Incorporation, and any amendments thereto, have been filed with this Commission in connection with prior proceedings of Owen, most recently in Case No. 5609 dated November 24, 1971.
3. Owen is in the business of distributing and furnishing electric current to approximately 41,000 member-customers in North-Central Kentucky in the counties of Owen, Grant, Pendleton, Gallatin, Scott, Boone, Kenton, Campbell and Carroll.
4. The City of Sparta, Gallatin County, Kentucky, recently notified Owen that it had annexed additional areas within its corporate city limits which are within territory certified, for provision of retail electric service to Owen by the Public Service Commission of Kentucky pursuant to the provision of KRS 278.016 to 278.018, as appearing on maps of

such certified territories issued by and on file with such Commission. Further, the City of Sparta notified Owen it was offering a franchise for the transmission and distribution of electricity within the corporate limits of the City of Sparta, Kentucky, pursuant to the terms of an Ordinance dated July 5, 1978, a copy of which is attached hereto and incorporated herein designated as Exhibit "A".

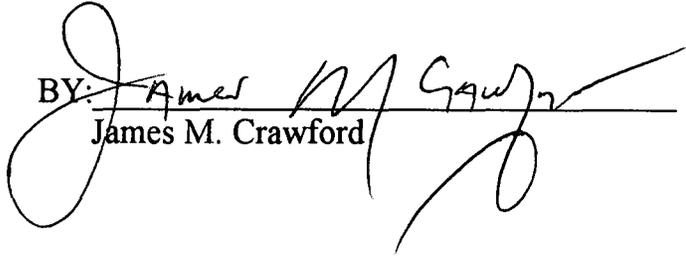
5. As a result of the above mentioned annexation, Owen now serves approximately 32 customers within the corporate limits of the City of Sparta. Inasmuch as part of Owen's certified territory established pursuant to KRS 278.016 et seq. is now located within the City of Sparta, there is a need and demand for the continuation of such services by Owen within the City of Sparta.

6. Owen is ready, willing and able to continue providing retail electric service within the corporate limits of the City of Sparta.

WHEREFORE, Owen Electric Cooperative, Inc., respectfully prays that the Public Service Commission enter its order authorizing Owen to bid on the franchise offered by the City of Sparta, Kentucky.

CRAWFORD & BAXTER, P.S.C.
ATTORNEYS AT LAW
523 Highland Avenue
P.O. Box 353
Carrollton, Kentucky 41008
Phone: (502) 732-6688

Attorneys for Owen Electric Cooperative, Inc.

BY: 
James M. Crawford

THE BOARD OF TRUSTEES OF Sparta, KENTUCKY, met in regular session at the regular meeting place in said City on the 5th day of July 1978

There were present at said meeting Robert Ping, Chairman of the Board of Trustees.

and the following Trustees: Sidney Gullion, Elmer Dunavent, Charles William Dunavent

Absent: William Corbett

The Chairman announced that a quorum was present and that the meeting was open for the transaction of business. Thereupon, the following resolution was introduced and duly seconded: WHEREAS, certain parties are desirous of obtaining a franchise for the sale and distribution of electrical energy in this City and adjoining territory, and the right to use the streets, alleys, avenues, highways, and public places in this City for said purposes; WHEREAS, it is the opinion of this body that it is to the best interest of this City that such franchise be advertised, sold and granted according to law; THEREFORE, be it Resolved that such franchise be, and the same is, hereby defined and the terms and conditions upon which same is to be granted and enjoyed, specified, as set forth in the ordinance introduced herewith; that the City Clerk be, and he is hereby, authorized and directed to offer said franchise for sale at public outcry to the highest and best bidder in accordance with the terms and conditions set forth in said franchise; and that the City Clerk, after having advertised for sale and sold said franchise, be, and he is, hereby directed to report his action to a subsequent meeting of this body. Be it further resolved that the terms and conditions of said franchise are set forth in the ordinance now introduced, which ordinance is as follows:

AN ORDINANCE

THE BOARD OF TRUSTEES OF THE CITY OF Sparta, Kentucky Callatin COUNTY, KENTUCKY, DOES ORDAIN AS FOLLOWS:

SECTION 1. That the purchaser and grantee of this franchise, his or its legal representatives, successors, and assigns, hereinafter called the "purchaser", be, and is, subject to the conditions hereinafter contained, hereby authorized and empowered to acquire, purchase, construct, maintain and operate in and through this City, a system of works for the generation, distribution and transmission of electrical energy from points either within or without the corporate limits of this City, to this City and the inhabitants thereof, and from and through this City in persons, corporations and municipalities beyond the limits thereof, and for the sale of same for light, heat, power and other purposes; to erect and maintain poles, wires and other apparatus necessary or convenient for the operation of said system in, upon, across and along each, and all of the streets, avenues, alleys and public places, within the present and future corporate limits of this City; to have and hold, as by law authorized, any and all real estate, easements, water and other rights necessary or convenient for said purpose; to use any and all such streets, avenues, alleys and public places while constituting or operating said electric system or systems; and to cross any and all streets and streams in this City for the purpose of constructing, maintaining or extending such poles, wires and other apparatus as may be necessary or convenient for the proper distribution of electric energy in and through this City. If, after any pole has once been erected, the Board of Trustees shall order its removal to another location, the City shall pay the cost of making such relocation; except that, if the relocation is made necessary due to widening, regrading or reconstruction of a street or highway and the pole was originally erected in public right-of-way and is in public right-of-way immediately prior to the relocation, purchaser will pay the cost of the relocation. In any extension of the present distribution system, additional poles shall be placed under the supervision of the Board of Trustees.

SECTION 2. The purchaser shall indemnify, and save harmless the City from any and all damages, judgments, decrees, costs and expenses, including a reasonable attorney's fee, which the City may legally suffer or incur in which may be legally obtained against the City for or by reason of the use and occupation of any street, avenue, alley, or other public place in the City by the purchaser, pursuant to the terms of this franchise, or legally resulting from the exercise by the purchaser of any of the privileges herein granted; and, if any claim shall be made or suit brought against the City for damages alleged to have been sustained by reason of the occupation of any street, avenue, alley or public place or the exercise of any privileges herein granted, by the purchaser, the City shall immediately notify the purchaser in writing thereof, and the purchaser is hereby given the right and privilege to defend or assist in defending such suit, in the name of the City.

SECTION 3. The purchaser may furnish electricity for light, heat, power and any other purpose to any person or persons residing along or near the aforesaid streets, avenues, alleys and public places, and may make such lawful contracts for the use thereof as may be agreed upon between the purchaser and the said person or persons.

SECTION 4. The purchaser shall extend its electric light or power lines and install additional equipment whenever there is assured to it from additional business to be derived therefrom a reasonable return upon the investment required to install such extension.

SECTION 5. The purchaser shall have the right to make and enforce reasonable rules and regulations necessary to the proper conduct of its business and protection of its property.

SECTION 6. The purchaser shall have the right to charge for electrical energy supplied within the City, rates that are reasonable and that are subject to regulation by the Public Service Commission of Kentucky.

SECTION 7. This franchise and all rights and privileges granted hereunder shall be in full force and effect for a period of twenty (20) years from and after the date when this franchise is granted to the purchaser.

SECTION 8. This franchise may be transferred by the purchaser and the word "purchaser" whenever used in this franchise shall include and be taken to mean and apply also to all the successors and assigns of the purchaser.

SECTION 9. As additional consideration for the grant of this franchise, the purchaser will pay to the City a sum equal to 1% of the gross revenue received by the purchaser, on and after January 1, 1980, or on and after the date when the grant of this franchise becomes effective, whichever is later, from electric service rendered within the corporate limits of the City to customers supplied under residential and commercial revenue classifications, as now defined in the Company's system of accounts and reported to the Public Service Commission of Kentucky. The amount payable to the City for each full calendar year during which this franchise is in effect, shall be computed on the basis of revenues received between January 1st and December 31st of such year, and payment shall be made on or prior to March 1st next following such December 31st; the amount which may be payable to the City for a portion of a calendar year at the commencement or termination of the term of this franchise shall be computed on the basis of revenues received during such portion of a calendar year, and shall be payable not more than 60 days after the termination of the period for which payment is made. If any amount paid pursuant to the provisions of this Section 9 stated by purchaser, at the time of such payment to be based in whole or in part on revenues which are subject to refund by purchaser, and if any part of such revenues there- after is required to be refunded by purchaser, the City shall repay to purchaser that part of the payment made hereunder based upon such revenues required to be refunded, such repayment to be made, at purchaser's option, either on demand or by credit against the payment or payments otherwise next becoming due hereunder. Should any license tax, occupational tax or any other tax, charge or fee except ad valorem taxes be now or hereafter imposed, the amount payable under this section shall be payable only to the extent that it exceeds the sum of all such taxes, charges or fees.

SECTION 10. It shall be the duty of the City Clerk, as soon as practicable after the introduction of this ordinance, to post at public auction, in the highest and best bidder, the within franchise at the City Hall on some day to be fixed by him after advertising the proposed ordinance and the time and place of sale thereof once a week for three consecutive weeks, in

The Callatin County News Warsaw, Kentucky and in making said sale he shall receive no bid for less amount than the total expense connected with the making of said sale including the cost of advertising, and he shall report his actions hereunder at a subsequent meeting of this Board of Trustees. This Board of Trustees reserves the right to reject any and all bids.

ATTEST: [Signature] Robert Ping, Chairman of Board of Trustees

Trustee Elmer Dunavent moved the adoption of said resolution, and said motion being duly seconded.

Said motion and resolution received the following affirmative votes: Sidney Gullion, Charles William Dunavent

Negative: None

Thereupon the Chairman announced that said resolution was duly adopted. Said ordinance was given a first reading but was not put upon its passage and it was ordered that same lie over until, and be brought up for passage at a meeting of the Board, after the City Clerk has sold the franchise at public outcry as directed in the foregoing resolution.

Thereupon the meeting was adjourned to the 1st day of August 1978

ATTEST: [Signature] Robert Ping, Chairman of Board of Trustees

[Signature] City Clerk